

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

■ COVID-19 VACCINATION

The STATE BOARD OF EDUCATION, the DEPARTMENT OF PUBLIC HEALTH and the DEPARTMENT OF HUMAN SERVICES have adopted emergency rules implementing provisions of Executive Orders 2021-22 and 2021-24 that concern COVID-19 vaccination, testing and exclusion policies for schools, health care facilities and other institutions.

Schools

The STATE BOARD OF EDUCATION adopted a new Part by emergency rulemaking titled Mandatory Vaccinations for School Personnel (23 IAC 6; 45 Ill Reg 11843) effective 9/17/21 for a maximum of 150 days, implementing EO 2021-22. The Part applies to employees, volunteers, or contractual personnel of any public, private or

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

charter K-12 school or school district, as well as employees of entities that have been contracted to provide services to a K-12 school or district (e.g., transportation or food service), who come into close contact (6 feet or less for 15 minutes or more) with students or other school personnel at least once per week. It does not apply to persons whose contact with students or others is brief (e.g., persons making

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Proposed Rulemakings

■ VEHICLE REGISTRATION

The SECRETARY OF STATE proposed an amendment to Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 Ill Reg 11799) setting a maximum Electronic Registration and Titling (ERT) fee of \$35 (currently, \$25) for sales conducted over the counter at businesses that participate in SOS' ERT program. Businesses that sell vehicle titles and registration stickers are affected by this rulemaking.

Questions/requests for copies/comments through 11/15/21: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, pwright@ilsos.gov

ROADSIDE MEMORIALS

The DEPARTMENT OF TRANSPORTATION proposed

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rule

MEDICAL INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Construction and Filing of Accident and Health Insurance Policy Forms (50 IAC 2001; 44 Ill Reg 17603) effective 9/15/21, incorporating the statutory Insurance Code limit on allowable

incentives for wellness programs (formerly, rule set a cap of 20% of the entire cost of individual or family coverage, but this cap is now in conflict with statute that establishes a 30% cap). The rulemaking also extends some of the provisions in this Part (corporate name requirements, prohibition of discretionary

clauses) to short-term, limited duration health insurance coverage and excepted benefit policies.

Questions/requests for copies: Ryan Gillespie, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-2746.

Emergency Rules

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deliveries or pickups). Current school personnel must have received a single dose, or the 1st dose of a 2-dose series, of COVID-19 vaccine by 9/19/21 and must receive the 2nd dose, if applicable, within 30 days after the 1st. School personnel beginning a school-based role after 9/3/21, if not already fully vaccinated, must receive a single dose vaccine or 1st of a 2-dose series of vaccinations within 10 days after beginning their school-based role, and receive the 2nd dose within 30 days after the first. Proof of vaccination must be presented to the school by 9/19 or immediately upon full vaccination. Exemptions from vaccination may be granted if vaccination is medically contraindicated or violates the individual's sincerely held religious belief or practice. Personnel not yet fully vaccinated (2 weeks after a single dose or completion of a 2-dose series) or who are granted exemptions from vaccination must be tested at least weekly. If an outbreak occurs at the school, testing must take place at least twice weekly. School districts and private schools are affected.

Questions/requests for copies: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Control of Communicable Diseases Code (77 IAC 690; 45 Ill Reg 12123), effective 9/17/21 for a maximum of 150 days, implementing EO 2021-24, which establishes conditions under which students and staff of K-12 public and nonpublic schools may be excluded from school premises due to COVID-19 infection or exposure. The rule stipulates that isolation and quarantine (actions that, under the Department of Public Health Act, are enforced by court order or action of a local public health authority) do not include exclusion from school or imposition of mandatory testing or vaccination by schools, employers or institutions. It also removes definitions of "modified isolation" and "modified quarantine" that had included exclusion from school as an example of these actions. Students and school personnel who come into close contact (within 6 feet for a total of 15 minutes or

more in any 24-hour period) with a confirmed or probable case of COVID-19 (determined by a positive test or clinical symptoms) may be excluded from school premises for up to 14 days. However, the close contact restrictions do not apply to persons who are fully vaccinated, who have tested positive in the past 90 days and are asymptomatic, or who were seated 3-6 feet apart in a classroom and were consistently wearing masks. School districts and private schools are affected.

Long Term Care

DPH adopted emergency amendments to Assisted Living and Shared Housing Establishment Code (77 IAC 295; 45 Ill Reg 11924), Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 11941), Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 11964), Intermediate Care Facilities for the Developmentally Disabled Code (77 IAC 350; 45 Ill Reg 12012), Community Living Facilities Code (77 IAC 370; 45 Ill

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Proposed Rulemakings

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amendments to Roadside Memorials (92 IAC 549; 45 Ill Reg 11808) updating the messages and design of roadside memorial signs and plaques erected by DOT at the sites of fatal vehicle accidents. Memorial markers for fatal accidents attributed to driving under the influence that are erected on or after 7/1/21 shall bear the message "Don't Drive Under the Influence"; those erected prior to that date will continue to bear the message "Please Don't Drink and Drive". Memorials to other fatal accidents shall be 36 by 24 inches in size with the message "Reckless Driving Costs Lives" if the accident is attributed to reckless driving; otherwise the memorial sign shall be 36 by 18 inches and bear the message "Drive With Care". Memorial markers and plaques shall be maintained for at least 2 years after the memorial was erected or the last person was memorialized on the plaque.

Questions/requests for copies/ comments through 11/15/21:

Greg Stucka, DOT, 2300 S. Dirksen Parkway, Room 317, Springfield IL 62764, 217/524-2638.

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Temporary Assistance for Needy Families (89 IAC 112; 45 Ill Reg 11739) removing references to the Work First/Pay After Performance program that was available only in Cook County. TANF participants currently assigned to the program will be reassigned to other available work training and educational activities.

SNAP BENEFITS

DHS also proposed amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 11777) reinstating an expansion of student SNAP benefits under the federal Consolidated Appropriations Act (PL 116-260) to include students who qualify for federal or state work-study programs and those whose expected family

contribution to educational expenses (as determined during the application process for federal student aid) is zero. These exemptions had originally been scheduled to expire on 6/30/21 but will now remain in effect until 30 days after the federal government ends the nationwide COVID-19 public health emergency.

DISABILITY DETERMINATION

DHS proposed amendments to the Part titled The Consultative Examination Process (89 IAC 840; 45 Ill Reg 11795) that update an incorporation of federal standards for disability examinations that are used to determine eligibility for Social Security disability or Supplemental Security Income (SSI) benefits. (DHS uses the same standards to determine eligibility for its disability programs).

Questions/requests for copies/ comments on the 3 DHS rulemakings through 11/15/21: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217/785-9772.

Emergency Rules

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Reg 12041), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 45 Ill Reg 12058), and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 45 Ill Reg 12079) that require health care workers in close contact with patients, residents, or others at any

health care facility to be vaccinated against COVID-19 or be regularly tested. Current staff must have received a single dose of vaccine, or the 1st in a 2-dose series, by 9/19/21 and must receive the 2nd dose within 30 days of the first. Staff hired after 9/3/21, if not already vaccinated, must receive a single or 1st dose within 10 days after starting work and the 2nd dose

within 30 days of the first. Proof of vaccination in the form of a Centers for Disease Control and Prevention (CDC) vaccination card, a health care provider print or electronic record, or a State record must be presented to the employing facility and kept in the employee's confidential medical

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Emergency Rules

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file. Opportunities for staff to be vaccinated must be made available either on site or through a pharmacy or other appropriate health care provider, and conspicuous signage announcing these opportunities must be posted throughout the facility. Staff members may decline vaccination if it is medically contraindicated or would violate a sincerely held religious belief or practice. Those who decline vaccination must be tested at least once a week, or twice a week if the facility is located in an area of “high or substantial” COVID-19 transmission according to the CDC. Staff members who test positive or refuse testing cannot enter or work at the employing facility. Tests must be approved by the Food and Drug Administration or the federal Centers for Medicare and Medicaid Services and should be administered under the supervision of a health care provider. If any staff member, volunteer, or resident of a long term care facility tests positive for COVID-19 or shows symptoms, all residents and staff must be tested every 3-7 days until no new cases or positive tests have occurred for 14 days. Facilities may impose stricter rules requiring all staff to be vaccinated without exception. Facilities must also, no later than 9/29, provide unvaccinated staff with at least 90 minutes of “clear and accurate instruction” from DPH approved providers (e.g., CDC, FDA, Mayo Clinic) addressing vaccine effectiveness, benefits and risks, common

reactions, reasons cited for hesitancy, and misinformation. These emergency rules also renew general provisions for infection control (including control of and testing for COVID-19 among residents and staff) that were contained in previous emergency rules that expired on 9/14/21. Long term care facilities are affected.

Hospitals & EMS

DPH also adopted emergency amendments to Hospital Licensing Requirements (77 IAC 250; 45 Ill Reg 11907) and Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center, and Acute Stroke Ready Hospital Code (77 IAC 515; 45 Ill Reg 12108), effective 9/17/21 for a maximum of 150 days, implementing the COVID-19 vaccination and testing provisions of EO 2021-22 (summarized under Long Term Care) for hospital and Emergency Medical Services staff. These emergency rules additionally define an “outbreak” as occurring when two or more individuals who habitually occupy an outbreak setting (an office, unit, meeting place or other place in which people congregate) test positive or show symptoms within a 14-day period. If an outbreak occurs in a hospital or EMS facility, all staff who are not fully vaccinated must be tested at least twice a week, until no new cases have been identified for at least 14 days. Hospitals and ambulance/EMS providers are affected.

Veterans’ Homes

DPH adopted emergency amendments to Illinois Veterans’ Homes Code (77 IAC 340; 45 Ill Reg 11994), effective 9/15/21, that renew general provisions for infection control, including measures for testing and control of COVID-19, contained in previous emergency rules that expired on 9/14/21. The EO 2021-22 provisions for staff COVID-19 vaccination and testing are not included in this emergency rule because vaccination requirements are still being negotiated with collective bargaining units representing veterans’ home staff.

Questions/requests for copies of the 11 DPH emergency rules: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, (217)782-1159, dph.rules@illinois.gov

Mental Health & Disability

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to the Parts titled Medicaid Community Mental Health Services Program (59 IAC 132; 45 Ill Reg 11877), Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; 45 Ill Reg 11885), Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind (89 IAC 730; 45 Ill Reg 11894) and Role of Residential Educational Facilities Operated by the Illinois Department of

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Emergency Rules

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Human Services (89 IAC 750; 45 Ill Reg 11902), all effective 9/16/21 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 45 Ill Reg 11735, 11737, 11791, and 11793. The emergency and proposed amendments to Parts 132, 730 and 2060 implement the health care worker COVID-19 vaccination and testing requirements of EO 2021-22 for staff members of Medicaid community mental health services providers, DHS substance use treatment programs, and the Illinois Center for Rehabilitation and Education-Wood. The amendments to Part 750 apply SBE's vaccination and testing requirements for school personnel in 23 IAC 6 to the Illinois School for the Deaf and School for the Visually Impaired. Those affected by these rulemakings include community mental health and substance abuse treatment providers.

Questions/requests for copies/comments on the 4 proposed DHS rulemakings through 11/15/21: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217/785-9772.

■ HOUSING DEVELOPMENTS

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part by emergency rulemaking titled COVID-19 Affordable Housing Grant

Program (47 IAC 369; 45 Ill Reg 11866), effective 9/16/21 for a maximum of 150 days. An identical proposed amendment appears in this week's *Register* at 45 Ill Reg 11732. The new Part implements a COVID-19 Affordable Housing Grant Program created by Public Act 102-175 that provides grants for new construction or rehabilitation of multifamily housing. Maximum grant amounts to qualified developers are normally 35% of total development cost, but additional grant funds may be awarded to cover increased construction costs or maintain the financial stability of the project. Priority will be given to developer applicants from areas disproportionately impacted by COVID-19 or by high rates of poverty or unemployment; applicants who are, or who have contracts with, disadvantaged or underrepresented businesses (e.g., minorities, women, persons with disabilities); and applicants who have project labor agreements or active apprenticeship programs. Grant recipients must also enter into recapture agreements that allow IHDA to demand repayment of the grant if the recipient does not abide by the affordable housing restrictions contained in the agreement, or if it transfers ownership or control of the development without IHDA's permission, during the 15-year compliance period.

Questions/requests for copies/comments on the proposed rulemaking through 11/15/21: Kathryn Finn, IHDA, 111 E.

Wacker Dr., Suite 1000, Chicago IL 60601.

■ INTERNET SALES TAXES

The DEPARTMENT OF REVENUE adopted emergency amendments to the Part titled Leveling the Playing Field for Illinois Retail Act (86 IAC 131; 45 Ill Reg 12152), effective 9/14/21, modifying an existing emergency rule (effective 7/13/21) for the remainder of its 150-day term in response to a JCAR Objection and Suspension. The original emergency rule addressed internet sales handled by marketplace facilitators (online platforms such as Amazon and eBay that advertise items for sale by third-party sellers and collect/remit payment for these items), remote retailers (sellers with no physical presence in Illinois), food delivery services, and other businesses. DOR's modifications add an effective date of 8/27/21 for a provision that excludes Illinois-licensed auctioneers from the definition of a marketplace facilitator and clarifies other aspects that affect remote retailers and marketplace sellers (persons/businesses that conduct online sales through marketplace facilitators). With regard to the Chicago Municipal Soft Drink Tax and the Metropolitan Pier and Exposition Authority Retailer's Occupation Tax, the modification amendment sets an effective date of 10/1/21 for provisions that require affected food delivery services to collect and pay these

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taxes. The modification also provides that sales by a remote retailer of any item that requires Illinois registration or title (e.g., vehicles, trailers, watercraft) are not subject to Illinois sales tax, but purchasers must pay applicable Illinois and local use taxes as required by law. Those affected by these emergency amendments include food service establishments that use online ordering and delivery services; small businesses that conduct sales through marketplace

facilitators; and licensed auctioneers.

■ CANNABIS BUSINESSES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted emergency amendments to Cannabis Business and Tax Act (68 IAC 1291; 45 Ill Reg 11851), effective 9/14/21, modifying an existing emergency rule (effective 7/15/21 for a maximum of 150 days) in response to a JCAR Objection and Suspension. The original emergency rule included

provisions establishing a Responsible Vendor Program (RVP) through which dispensing organization employees will receive training in cannabis laws and regulations. DFPR removed these provisions from the emergency rule because JCAR determined that no emergency existed that required adoption of these amendments on an emergency basis without public notice. RVP provisions remain in the companion proposed rulemaking at 45 Ill Reg 9527. Cannabis dispensing businesses are affected.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be listed in next week's *Illinois Register* and considered at the October 19, 2021 JCAR meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL & PROFESSIONAL REGULATION

Cannabis Regulation and Tax Act (68 IAC 1291; 45 Ill Reg 9527) proposed 7/30/21

DEPT OF NATURAL RESOURCES

The Illinois Oil and Gas Act (62 IAC 240; 45 Ill Reg 8609) proposed 7/16/21

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 45 Ill Reg 8636) proposed 7/16/21

Secretary of State Procurement (44 IAC 2000; 45 Ill Reg 9385) proposed 7/23/21

STATE BOARD OF EDUCATION

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 45 Ill Reg 6906) proposed 6/11/21

Standards for Endorsements in Elementary Education (23 IAC 20; 45 Ill Reg 6938) proposed 6/11/21

Standards for Endorsements in Early Childhood Education and in Elementary Education (23 IAC 26; 45 Ill Reg 6943) proposed 6/11/21

Standards for Endorsements in Special Education (23 IAC 28; 45 Ill Reg 6979) proposed 6/11/21

Special Education Facilities under Section 14-7.02 of the School Code (23 IAC 401; 45 Ill Reg 7103) proposed 6/11/21